



1995 SENATE BILL 468

December 20, 1995 - Introduced by Senators BURKE, CLAUSING, DARLING, ROSENZWEIG and WEEDEN, cosponsored by Representatives KRUG, BOYLE, COLEMAN, COGGS, GOETSCH, GREEN, GRONEMUS, HAHN, KREUSER, LADWIG, LA FAVE, MUSSER, PLACHE, R. POTTER, RILEY, SPRINGER, WALKER and WIRCH. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 950.04; *to amend* 950.06 (2m), 970.03 (4) (a)
2 and 970.03 (4) (b); and *to create* 950.04 (2g) of the statutes; **relating to:** the
3 right of victims to attend court proceedings that a defendant is required or
4 permitted to attend.

Analysis by the Legislative Reference Bureau

Under current statutory law, victims and witnesses of crimes have certain rights. These rights include the following rights relating to court proceedings: 1) the right to be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled; and 2) the right to be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be near defendants and families and friends of defendants. These rights are also afforded to the family members of homicide victims, whether or not the family members are witnesses in any criminal proceeding. In addition, the state constitution provides that the state must ensure that crime victims have certain privileges and protections as provided by law, including the opportunity to attend court proceedings unless the trial court finds that excluding the victim from the proceeding is necessary to a fair trial for the defendant.

This bill provides that a victim of a crime has the right to attend any proceeding in the case in which he or she is involved as a victim if the defendant is required or permitted to attend the proceeding and regardless of whether a judge presides at the proceeding, unless the trial court finds that excluding the victim from the proceeding is necessary to a fair trial for the defendant.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 950.04 of the statutes is renumbered 950.04 (1m), and 950.04 (1m)
2 (k), as renumbered, is amended to read:

3 950.04 **(1m)** (k) To have the family members of all homicide victims afforded
4 all of the rights under subs. ~~(1) to (4)~~ (1m) (a) to (e) and ~~(6) to (9)~~ (g) to (j) and (2g) and
5 analogous services under s. 950.05, whether or not they are witnesses in any criminal
6 proceedings.

7 **SECTION 2.** 950.04 (2g) of the statutes is created to read:

8 950.04 **(2g)** The victim of a crime has the right to attend any proceeding in the
9 case in which he or she is involved as a victim if the defendant is required or
10 permitted to attend the proceeding and regardless of whether a judge presides at the
11 proceeding, unless the trial court finds sequestration is necessary to a fair trial for
12 the defendant.

13 **SECTION 3.** 950.06 (2m) of the statutes is amended to read:

14 950.06 **(2m)** Notwithstanding subs. (1) and (2), the county is not responsible
15 for providing or paying for the notification of pardon application described under s.
16 950.04 ~~(1)~~ (1m) (a).

17 **SECTION 4.** 970.03 (4) (a) of the statutes is amended to read:

18 970.03 **(4)** (a) If the defendant is accused of a crime under s. 940.225, 948.02,
19 948.025, 948.05 or 948.06, the court may exclude from the hearing all persons who
20 are not officers of the court, members of the complainant's, alleged victim's or
21 defendant's families or others considered by the court to be supportive of the

1 complainant, alleged victim or defendant, the service representative, as defined in
2 s. 895.73 (1) (c), or other persons required to attend, if the court finds that the state
3 or the defendant has established a compelling interest that would likely be
4 prejudiced if the persons were not excluded. The court may consider as a compelling
5 interest, among others, the need to protect a complainant or alleged victim from
6 undue embarrassment and emotional trauma.

7 **SECTION 5.** 970.03 (4) (b) of the statutes is amended to read:

8 970.03 (4) (b) In making its order under this subsection, the court shall set forth
9 specific findings sufficient to support the closure order. In making these findings, the
10 court shall consider, and give substantial weight to, the desires, if any, of ~~the~~ any
11 complainant or alleged victim. Additional factors that the court may consider in
12 making these findings include, but are not limited to, the complainant's or alleged
13 victim's age, psychological maturity and understanding; the nature of the crime; and
14 the desires of the complainant's or alleged victim's family.

15 (END)